

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**SANTOS GARCIA, GREGORIO
VASQUEZ and MIRNA ABIGAIL
CASTRO Individually and on Behalf of
All Others Similarly Situated**

Plaintiffs,

v.

**E-LOGIC, INC., DWW ABATEMENT,
INC., HESTER ENVIRONMENTAL,
d/b/a TEAM ENTERPRISE, CACTUS
ABATEMENT & DEMOLITION, LLC,
ONEAL GROUP, INC., CHARLES
ONEAL and PHILIP HESTER**

Defendants.

**FLSA Collective Action Pursuant to
29 U.S.C. § 216(b)**

Civil Action No. 3:17-cv-2216-G

**PLAINTIFFS' RESPONSE TO DEFENDANTS'
MOTION TO DISMISS PURSUANT TO 12(b)(6)**

TO THE HONORABLE JUDGE OF THIS COURT:

Plaintiffs hereby notify the Court of their response to Defendants' Motion to Dismiss Pursuant to 12(b)(6) and Brief in Support.

I. INTRODUCTION AND ARGUMENT

1. Plaintiffs Juan Daniel Lopez, Gustavo Roberto Lopez, Jose Roberto Lopez, and Mirna Abigail Castro filed suit on behalf of themselves and others similarly situated against Defendants E-Logic, Inc., DWW Abatement, Inc., Hester Environmental, d/b/a Team Enterprise, Cactus Abatement & Demolition, LLC, Oneal Group, Inc., Charles Oneal, and Philip Hester on August 18, 2016 (Dkt.# 1), alleging causes of action under the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, *et seq.* Plaintiffs then amended that complaint on August 25, 2017 to, *inter alia*, add Santos Garcia, and Gregorio Vasquez as Named Plaintiffs (Dkt.# 6).

2. In response to Plaintiffs' First Amended Complaint, Defendants filed a Motion to Dismiss Pursuant to Rule 12(b)(6) and supporting brief (Dkt.# 9 and 10).

3. On December 7, 2017, Plaintiffs filed Motion for Leave to File their Second Amended Complaint. (Dkt.# 13). On December 8, 2017, this Court Granted Plaintiffs' Motion for Leave, and on December 11, 2017 (Dkt.# 15), Plaintiffs filed their Second Amended Complaint. (Dkt.# 17).

4. Plaintiffs' Second Amended Complaint adds clarifying facts relating to Plaintiffs' claims under the Fair Labor Standards Act, including facts relating to Plaintiffs' employment relationship with Defendants.

5. Plaintiffs' amended complaint does not add any new parties.

II. PRAYER FOR RELIEF

6. Accordingly, in light of Plaintiffs' Second Amended Complaint and this response, Plaintiffs' respectfully request the Court deny Defendants' Motion to Dismiss.

Respectfully submitted,

EQUAL JUSTICE CENTER

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CERTIFICATE OF SERVICE

I hereby certify that on December 11, 2017 a copy of the foregoing document was electronically filed. Notice of this filing will be sent to counsel of record for all parties by operation of the Court's Electronic Filing System.

/s/ Michael O'Keefe Cowles

Michael O'Keefe Cowles